

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

GREGG SMITH,
MICHAEL NOWAK, and
JEFFREY RUFFO,

Defendants.

No. 19 CR 669

Judge Edmond E. Chang

**UNITED STATES MEMORANDUM IN
SUPPORT OF THE ADMISSION OF GX 84 & 463**

Pursuant to the Court’s order during the June 2, 2022 pretrial conference, the United States submits this memorandum in support of the admission of Government Exhibit (“GX”) 84 and 463. The conspiracies charged in Count One and Count Two of the Second Superseding Indictment both begin in March 2008. *See* 2d Super. Indict. ¶¶ 22 & 48. The relevant portion of the chat communication in GX 84 and the trading sequence in GX 463 both occurred on March 5, 2008. The United States misspoke during the pretrial conference when it indicated that this conduct occurred outside of the charged conspiracy periods (Tr. 77:05-07). Since this conduct at issue in these exhibits occurred within the time period of the charged conspiracies, the admission of GX 84 and 463 does not present a Federal Rule of Evidence 404(b) issue, nor does it implicate the Seventh Circuit’s discussion of Rule 404(b) in *United States v. Gomez*, 63 F.3d 845 (7th Cir. 2014) (en banc).

Dated: June 9, 2022

Respectfully submitted,

/s/ Matthew F. Sullivan

Avi Perry

Matthew F. Sullivan

Lucy Jennings

Christopher Fenton

U.S. Department of Justice

Criminal Division, Fraud Section

1400 New York Ave. NW

Washington, DC 20530

(202) 578-6583